

LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
153 Townsend Street, Suite 520
San Francisco, CA 94107

Jylana Collins, State Bar No. 107949
Maria Lourdes Matthew, State Bar No. 219512
Office Of General Counsel
EAST BAY MUNICIPAL UTILITY DISTRICT
P.O. Box 24055
Oakland, California 94623
Telephone: (510) 278-0174
Facsimile: (510) 287-0162

Cynthia O'Neill, State Bar No. 132334
coneill@lcwlegal.com
LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
153 Townsend Street, Suite 520
San Francisco, CA 94107

Telephone: (415) 512-3000
Facsimile: (415) 856-0306

Attorneys for Defendant
EAST BAY MUNICIPAL UTILITY DISTRICT

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BRIAN MULHERN, and ALL OTHER
INDIVIDUALS SIMILARLY
SITUATED, and on behalf of the
GENERAL PUBLIC,

Plaintiffs,

v.

EAST BAY MUNICIPAL UTILITY
DISTRICT,

Defendant.

Case No. C 08-04800-MMC

**STIPULATION FOR DISMISSAL WITH
PREJUDICE AND FOR ENTRY OF
JUDGMENT; ORDER APPROVING
STIPULATION AND DISMISSAL WITH
PREJUDICE**

Whereas, Brian Mulhern, filed a complaint in the U.S. District Court for the
Northern District of California on or about October 20, 2008, entitled, *Brian Mulhern v.*
East Bay Municipal Utility District, Case No. C 08-04800- MMC ("Lawsuit") against the
East Bay Municipal Utility District ("District") for violation of the Fair Labor Standards
Act ("FLSA"), alleging that the District had failed to pay the appropriate amount of FLSA

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overtime compensation;

Whereas, "Opt-ins" are full time employees who have worked or work for the District in the Call Center between October 20, 2006 and February 8, 2008 and who have confirmed his or her choice to join this lawsuit has by signing and filing, no later than April 30, 2009, an "Opt-in Consent Form" and who have not withdrawn his or her consent to this date;

Whereas, all parties desire to fully resolve this matter and to avoid incurring further costs and expenses incident to the litigation in this matter;

Whereas, all parties have agreed to the terms of the attached "Settlement Agreement and General Release of Claims" attached hereto as Exhibit A as evidenced by their signature pages;

Whereas, the parties agree that this settlement is a resolution of disputed matters and is not, in any way, an admission of liability, fault or wrongdoing on the part of any party;

IT IS HEREBY STIPULATED, by and between the parties of this action, and through their designated legal counsel, that the above-captioned action will be disposed of as follows:

1. That the Court order that his action be dismissed with prejudice in its entirety as to all parties pursuant to Federal Rule of Civil Procedure 41(a)(2) based upon the terms and conditions stated in the attached Settlement Agreement and General Release of Claims;

2. That the Plaintiff and the opt-ins must each sign document(s) evidencing their agreement to the "Settlement Agreement and General Release of Claims" before they can receive any wage payment due under the "Settlement Agreement and General Release of Claims";

3. That any action to enforce the attached Settlement Agreement and General Release of Claims be brought in Superior Court of California, in and for the County of Alameda and/or the U.S. District Court for the Northern District of California, to the

1 extent of this Court's jurisdiction; and

2 4. That the Clerk of the Court enter final judgment dismissing this action with
3 prejudice in its entirety.

4 Dated: 5/27/09, 2009

FOR THE PLAINTIFF



Brian Mulhern

8 Dated: 5/29, 2009

EAST BAY MUNICIPAL UTILITY
DISTRICT

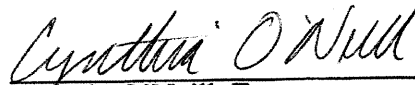


Gary Breaux
Director of Finance

13 Approved as to Form and Content

15 Dated: 5/28, 2009

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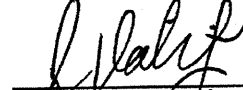


Cynthia O'Neill, Esq.
Attorneys for Defendant

19 Approved as to Form and Content

20 Dated: May 27, 2009

BEESON, TAYER & BODINE, APC



Jason Rabinowitz, Esq.
Attorneys for Plaintiffs

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ORDER APPROVING STIPULATION AND DISMISSAL WITH PREJUDICE

The Court having considered the parties' stipulation submitted herein and good cause appearing therefore, IT IS HEREBY ORDERED:

1. That this action is dismissed with prejudice in its entirety as to all parties pursuant to Federal Rule of Civil Procedure 41(a)(2) based upon the terms and conditions stated in the Settlement Agreement and General Release of Claims;
2. That any action to enforce the parties' Settlement Agreement and General Release of Claims be brought in the Superior Court of California, in and for the County of Alameda and/or the U.S. District Court for the Northern District of California, to the extent of this Court's jurisdiction; and
3. That the Clerk of the Court enter final judgment dismissing this action with prejudice and in its entirety

SO ORDERED

Dated: August 31, 2009

Maxine M. Chesney
The Honorable Maxine Chesney
United States District Court Judge

88207.3 EA391-011